

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD F. STOKES  
JUDGE

1 THE CIRCLE, SUITE 2  
SUSSEX COUNTY COURTHOUSE  
GEORGETOWN, DE 19947

July 8, 2010

James St. Louis  
SBI# 004, Unit DE  
James T. Vaughn Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

RE: *State of Delaware v. James St. Louis*, Def. ID# 0009015005 ( R-4)

DATE SUBMITTED: June 30, 2010

Dear Mr. St. Louis:

Defendant James St. Louis (“defendant”) has submitted his fourth motion for postconviction relief pursuant to Superior Court Criminal Rule 61 (“Rule 61”). This is my decision denying the motion as procedurally barred.<sup>1</sup> For economy’s sake, I repeat much of what

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<sup>1</sup>The applicable version of Rule 61(i) provides:

*Bars to relief.* (1) Time limitation. A motion for postconviction relief may not be filed more than three years after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than three years after the right is first recognized by the Supreme Court of Delaware or by the United States Supreme Court.

(2) Repetitive motion. Any ground for relief that was not asserted in a prior postconviction proceeding, as required by subdivision (b)(2) of this rule, is thereafter barred, unless consideration of the claim is warranted in the interest of justice.

has been set forth in my previous decisions on defendant's other Rule 61 motions.

On May 1, 2001, a jury found defendant guilty of the charges of rape in the first degree involving his step-daughter, a victim less than twelve years old, in violation of 11 Del. C. § 773(a)(5), and of continuous sexual abuse of a child, in violation of 11 Del. C. § 778. On June 22, 2001, defendant was sentenced to substantial periods of incarceration followed by probation.

Defendant appealed to the Supreme Court. That court found no error and affirmed the judgment of the Superior Court. *St. Louis v. State*, 798 A.2d 1042, 2002 WL 1160979 (Del. May 24, 2002). The Supreme Court's mandate was dated June 11, 2002.

Defendant's first Rule 61 motion contained numerous allegations, many of which were procedurally barred. Of significance to the pending motion are the rulings that the following claims were procedurally barred: improper admission through 11 *Del. C.* § 3507 of a videotaped interview of the victim which the Child Advocacy Center ("CAC")<sup>2</sup> conducted and denial of the

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(3) Procedural default. Any ground for relief that was not asserted in the proceedings leading to the judgment of conviction, as required by the rules of this court, is thereafter barred, unless the movant shows

(A) Cause for relief from the procedural default and

(B) Prejudice from violation of the movant's rights.

(4) Former adjudication. Any ground for relief that was formerly adjudicated, whether in the proceedings leading to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice.

(5) Bars inapplicable. The bars to relief in paragraphs (1), (2), and (3) of this subdivision shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.

<sup>2</sup>Videotaped interviews of the victim and her sister were introduced at trial.

right to a fair trial by allowing the deliberating jury to view the videotape of the victim. *State v. St. Louis*, 2004 WL 2153645 (Del. Super. Sept. 22, 2004). The Court further ruled defendant failed to establish any of his claims based on alleged ineffective assistance of counsel. Consequently, it denied the first Rule 61 motion. The Supreme Court affirmed that decision on appeal. *St. Louis v. State*, 869 A.2d 328, 2005 WL 528675 (Del. March 1, 2005) (TABLE).

On November 13, 2007, defendant filed his second Rule 61 motion. That motion contained numerous allegations that trial counsel was ineffective. The claim was denied as procedurally barred. *State v. St. Louis*, Del. Super., Def. ID# 0009015005, Stokes, J. (Dec. 14, 2007). Defendant timely filed a motion to reargue wherein he asserted the procedural bars were overcome by the “miscarriage of justice” exception in Rule 61(i)(5). Since ineffective assistance of counsel claims may fall within the miscarriage of justice exception to the procedural bars, this Court vacated the December 14, 2007, decision and considered those claims. *State v. St. Louis*, 2008 WL 601630 (Del. Super. March 6, 2008).

Claims in that second motion pertinent to the currently pending motion were that trial counsel was ineffective with regards to the admission of the videotaped CAC interviews and to allowing the jury to have the videotapes during deliberations. This Court concluded defendant had not established the elements of ineffective assistance of counsel. *Id. at \*\*6-11*. The Supreme Court affirmed this Court’s denial of the second Rule 61 motion. *St. Louis v. State*, 963 A.2d 139, 2008 WL 5264417 (Del. Dec. 18, 2008) (TABLE).

On November 12, 2009, defendant filed his third motion for postconviction relief. This Court denied that motion and the Supreme Court affirmed the denial. *State v. St. Louis*, Del. Super., Def. ID# 0009015005, Stokes, J. (Jan. 19, 2010), *aff’d*, 2010 WL 2164596 (Del. May 18,

2010).

Pertinent to the pending motion is that, in the third post-conviction motion, defendant argued that the admission of the videotaped CAC interview of the victim violated his constitutional right to confront a witness (the victim), as established in *Crawford v. Washington*, 541 U.S. 36 (2004) (“*Crawford*”). This Court ruled that since the declarant testified, and thus, was available for cross-examination, *Crawford* was inapplicable and consequently, defendant had no claim of a Confrontation Clause violation. *State v. St. Louis*, Del. Super., Def. ID# 0009015005, Stokes, J. (Jan. 19, 2010), at 4-5.

In this fourth motion, defendant once again attacks the admissibility of the videotaped CAC interviews and allowing the jury to view them during deliberations. The claims are procedurally barred because they are both untimely and should have been raised in previous motions. Super. Ct. Crim. R. 61(i)(1), (2), and (3). Defendant’s attempts to overcome the procedural bars merely consists of using key words in sentences. He opens his argument with the statement: “ The trial court **lacked jurisdiction** to allow the o-o-c<sup>3</sup> interrogation by the CAC Center....” [Emphasis added.] He concludes with the statement: “So **in the interest of justice** the defendant asks this Honorable Court to reverse the guilty verdict and vacate the sencece [sic] and guilty verdict against him....” [Emphasis added.]

The Rule 61(i)(5) exception that the Court lacked jurisdiction means that the Court did not have jurisdiction over defendant’s case. Defendant does not make that argument. Instead, he attempts to overcome the procedural bars by simply inserting the phrase “the trial court lacked jurisdiction” within his argument. That is insufficient to overcome any procedural bars.

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<sup>3</sup>Defendant probably means “out of court”.

Defendant uses the same method in advancing the “interest of justice” exception; i.e., he merely throws in the phrase. Again, invocation of the phrase is not sufficient to overcome any procedural bars.

For the foregoing reasons, I deny defendant’s fourth motion for postconviction relief.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary’s Office  
Melanie Withers, Esquire  
Office of the Public Defender